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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,365	09/29/2008	Harold Wolpert	U 016384-0	2493
140 7590 10/11/2011 LADAS & PARRY LLP 1040 Avenue of the Americas NEW YORK, NY 10018-3738				
EXAMINER				
MUSSELMAN, TIMOTHY A				
ART UNIT		PAPER NUMBER		
3715				
NOTIFICATION DATE		DELIVERY MODE		
10/11/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/585,365

Applicant(s)

WOLPERT ET AL.

Examiner

TIMOTHY A. MUSSELMAN

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-44 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-44 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 06 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-133)
Paper No(s)/Mail Date 7/6/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Status of Claims

In response to applicants preliminary amendment filed 7/6/2006, claims 1-44 are pending in this application. Claims 44-46 have been cancelled.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-27 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Claims 1-27 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. While applicant may be claiming a process, a recent appeal decision, *In re Bilski*, appeal no. 2007-1130, determined that process steps must be tied to a particular apparatus or transform an article of manufacture. Although applicant claims broadly wherein the method is a computer based method, this does not adequately describe how the method is implemented on a computer. To overcome this rejection, applicant's claims must positively describe how the process requires and utilizes a computer system.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 and 19-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Stone (US 6,179,618).

Regarding claims 1, 12, 19, 23-26, 28, 30, 34, 38, Stone discloses a simulation system comprising hardware and software, comprising a 'stage' and a time dependent scenario, and sequences of events to which participants respond. See col. 6: 40-60.

Regarding claims 2, 31, 39-40, Stone discloses wherein the events include virtual simulation information. See col. 6: 60-68.

Regarding claims 3-4, 32-33, Stone discloses wherein the system includes variable parameters for processing, including 'scenario time'. See col. 6: 60-65 and col. 7: 10-25.

Regarding claims 6-7, 21-23, Stone discloses wherein the simulation is dynamic based upon user inputs and also has scenario elements *not* dependent upon user inputs. See col. 8: 35-40.

Regarding claims 8, 37, Stone discloses wherein the time is not continuous between simulator scenarios. See col. 8: 1-13.

Regarding claims 9-10, 39, Stone discloses wherein the system comprises multiple independent roles and participants. See col. 3: 15-20.

Regarding claims 13-14, 29, Stone discloses wherein all elements of the simulation are recorded for further review and evaluation. See col. 8: 10-20.

Regarding claim 27, Stone discloses wherein the system comprises creating events by defining variables describing personnel and effects. See col. 6: 40-60.

Regarding claims 35 and 41, Stone discloses wherein the system provides realistic participant input means. See col. 6:57 – col. 7:10.

Regarding claim 36, Stone discloses wherein the scenarios take place in 'real time'. See col. 8: 1-15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-18 and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (US 6,179,618) in combination with Hayka et al. (US 5,688,118).

Regarding claims 15-18 and 42-44, Stone does not disclose a scoring method which involves scoring individuals in proficiency by determining their performance versus comparison to an ideal. However, this is a common scoring scheme well established in the art of simulation systems. Consider the system of Hayka, wherein this very concept is disclosed in See col. 13: 1-20. It would have been obvious to one of ordinary skill in

the art at the time of the invention to include this concept in other systems in order to evaluate user performance accurately.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY A. MUSSELMAN whose telephone number is (571)272-1814. The examiner can normally be reached on Mon-Thu 6:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TIMOTHY MUSSELMAN/
Examiner of AU 3715